
IN THE UNITED STATES DISTRICT COURT
CENTRAL DIVISION, DISTRICT OF UTAH

PATRICK LECOUVRE, : Civil No. 1:05-CV-005 DAK
Plaintiff, :
vs. : REPORT AND RECOMMENDATION
KIMBERLY CLARK CORP, et al., :
Defendants. : JUDGE DALE A. KIMBALL
MAGISTRATE JUDGE BROOKE C.
WELLS

Federal Rule 4(m) states in pertinent part:

Time Limit for Service. If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). This court recommends that the district court dismiss this case because Plaintiff, Patrick Lecouvre, has not completed service of process within the required time frame.

On May 26, 2005, Lecouvre was granted an extension of time to effectuate service of process.¹ There is no evidence in the

¹ See Order, docket no. 3.

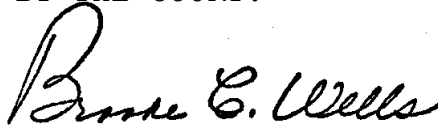
record indicating the complaint was ever properly served on Defendants. And, Plaintiff failed to properly respond to an Order to Show Cause entered by the district court on August 3, 2005.

Accordingly, this case should be dismissed.

Copies of the foregoing report and recommendation are being mailed to all parties who are hereby notified of their right to object. The parties must file any objection to the Report and Recommendation within ten days after receiving it. Failure to object may constitute a waiver of objections upon subsequent review.

DATED this 8th day of December, 2005.

BY THE COURT:

A handwritten signature in black ink, reading "Brooke C. Wells". The signature is written in a cursive, flowing style. The first letter "B" is large and loops around the first part of the name. The signature is positioned above a horizontal line.

Brooke C. Wells
United States Magistrate Judge